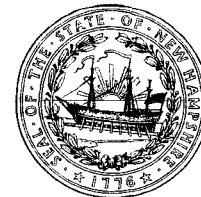




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

Nu-Cast, Inc.
29 Grenier Field Road
Londonderry, NH 03053

**ADMINISTRATIVE ORDER
BY CONSENT
No. ARD 06-004
(Sta.S)**

A. INTRODUCTION

This Administrative Order by Consent is issued by the Department of Environmental Services, Air Resources Division to, and with the consent of, Nu-Cast, Inc., pursuant to RSA 125-C:15. This Administrative Order by Consent is effective upon signature by all parties.

B. PARTIES

1. The Department of Environmental Services, Air Resources Division ("DES"), is a duly-constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, New Hampshire.
2. Nu-Cast, Inc. ("Nu-Cast") is a New Hampshire corporation having a mailing address of 29 Grenier Field Road, Londonderry, NH 03053.

C. STATEMENTS OF FACTS AND LAW

1. RSA 125-C authorizes DES to regulate sources of air pollution in New Hampshire. RSA 125-C:4 authorizes the Commissioner of DES to adopt rules relative to the prevention, control, abatement, and limitation of air pollution in New Hampshire. Pursuant to this authority, the Commissioner has adopted NH Admin. Rules Env-A 100 *et seq.*
2. RSA 125-I authorizes DES to promulgate a list of regulated toxic air pollutants ("RTAPs") and to establish hourly and annual ambient air limits ("AALs") for each RTAP. Pursuant to this authority, the Commissioner has adopted Env-A 1400, *Regulated Toxic Air Pollutants*.
3. Nu-Cast operates a precision aluminum investment casting foundry at Grenier Field Road in Londonderry, New Hampshire (the "facility") that manufactures premium quality castings for an array of industries including aerospace, electronics, aircraft, munitions, optics, and government.
4. Nu-Cast operates two propane-fired bake-out ovens at the facility. In the shell firing process, the ovens bake off the residual wax used to mold the cast.

5. Nu-Cast uses chemical and metal-containing raw materials that contain RTAPs pursuant to Env-A 1450.
6. On September 30, 1999, DES conducted an unannounced compliance inspection of the Nu-Cast facility. At the time of the inspection, Nu-Cast was informed that a compliance determination in accordance with Env-A 1406.01 was required by May 8, 2001.
7. On June 15, 2005, DES conducted another unannounced compliance inspection of the Nu-Cast facility in response to a complaint.
8. On December 1, 2005, DES issued Letter of Deficiency No. ARD 05-016 to Nu-Cast describing violations observed during the compliance inspection performed on June 15, 2005. The LOD included issues described in paragraphs C.9 through C.15 below and requested that Nu-Cast provide additional information by January 12, 2006.
9. Env-A 1405.01 states that the owner of any device or process which emits an RTAP shall determine compliance with the AALs using one of the methods described in Env-A 1405.02 through Env-A 1405.05 and provide documentation of compliance to DES upon request.
10. On June 15, 2005, at the time of the compliance inspection, Nu-Cast had not performed a compliance determination in accordance with Env-A 1405.01.
11. Env-A 2002.02 provides that the owner or operator of a fuel-burning device installed after May 13, 1970, shall not cause or allow average opacity from the fuel-burning device in excess of 20% for any continuous 6-minute period.
12. On June 15, 2005, during the compliance inspection of the Nu-Cast facility, DES observed that the opacity of emissions from the bake-out oven was greater than 20% for a continuous 6-minute period.
13. On December 21, 2005, DES conducted a follow-up visit of the Nu-Cast facility and observed the opacity of emissions from the bake-out oven was greater than 20% for a continuous 6-minute period.
14. On March 17, 2006, Nu-Cast provided DES with the following information as requested in the LOD:
 - An RTAP demonstration in compliance with Env-A 1405;
 - MSDSs for raw materials used at the facility;
 - Raw material and fuel use records for calendar years 2000 – 2005; and
 - A compliance plan which included the installation of two afterburners, one on each bake-out oven, and a schedule for installation of the afterburners in order to control opacity emissions and comply with Env-A 2002.02.

D. DETERMINATION OF VIOLATIONS

1. Nu-Cast violated Env-A 2002.02 by allowing the average opacity of emissions from the bake-out oven at its facility to be in excess of 20 percent for one or more continuous 6-minute periods.
2. Nu-Cast violated Env-A 1406.01 by failing to provide documentation of compliance with AALs to DES on June 15, 2005.

E. ORDER

Based on the above findings, DES hereby orders Nu-Cast, and Nu-Cast agrees, as follows:

1. By **October 16, 2006**, Nu-Cast will install an afterburner on one of the bake-out ovens.
2. By **December 16, 2006**, Nu-Cast will install an afterburner on the remaining bake-out oven.
3. By **January 16, 2007**, Nu-Cast will perform a US EPA Reference Method 9 opacity test on the emissions of both bake-out ovens with DES oversight. Nu-Cast shall contact DES at least 30 days prior to performing the Method 9 opacity tests to set a time and date for such tests.
4. Nu-Cast will notify DES in writing within ten days after completing each of the actions set forth in paragraphs E.1 through E. 3. Notices may be mailed, faxed or sent electronically. Each notice shall include documentation that the action in question was performed, the date of completion, and certification of the truth and accuracy by a responsible official of Nu-Cast of the information therein.
5. By **January 26, 2007**, consistent with actions set forth in paragraph E.4, Nu-Cast shall be in compliance with Env-A 2002.02, as determined by the Method 9 testing required in paragraph E.3.
6. Send correspondence and other submissions made in connection with this Administrative Order by Consent, to DES as follows:

Barbara Hoffman
Enforcement Section Supervisor
DES Air Resources Division
P.O. Box 95
Concord, NH 03302-0095
Fax: (603) 271-7874
e-mail: bhoffman@des.state.nh.us

F. STIPULATED PENALTIES

1. Nu-Cast agrees to pay stipulated penalties of \$25 per day for failure to meet any of the deadlines specified in paragraphs E.1 through E.5. DES may, in its discretion, waive payment of any stipulated penalties that come due if Nu-Cast demonstrates to the satisfaction of DES that a

specific deadline cannot be met for reasons beyond Nu-Cast's control. "Inability to pay" shall not be a valid reason for waiver of any penalties.

2. If stipulated penalties become due, payment shall be by certified check made payable to "Treasurer, State of New Hampshire" and shall be mailed to DES Legal Unit, Attn: Michael Sclafani, PO Box 95, Concord, NH 03302-0095, within 15 days of receipt of notice from DES that payment is required.

G. CONSENT AND WAIVER OF APPEAL


1. By execution of this Administrative Order by Consent, Nu-Cast agrees that this Order shall apply to and be binding upon Nu-Cast, its officers, directors, successors and assigns, and agrees that this Order may be entered and enforced by a court of competent jurisdiction.

2. By execution of this Administrative Order by Consent, Nu-Cast waives any right to appeal this Administrative Order by Consent provided by statute, rule, or common law, including without limitation the right to appeal to the Air Resources Council, and waives any right to object to the entry and enforcement of this Order by a court of competent jurisdiction.

3. By execution of this Administrative Order by Consent, Nu-Cast waives any right to a hearing on or appeal of the stipulated penalties specified in Section F of this Agreement, which may be provided by statute, rule, or common law, and waives any right to object to the penalties in any collection action initiated by DES due to non-payment of the penalties by Nu-Cast, except as noted in paragraph G.4, below.

4. In any action by DES to enforce the deadlines established in this Order, Nu-Cast may raise as a defense to such action that the delay was caused by circumstances beyond Nu-Cast's control, which circumstances shall not include Nu-Cast's financial inability to perform the obligations set forth in this Order. The parties may agree in writing to extend the deadlines set forth herein to the extent that delays are caused by circumstances beyond Nu-Cast's control.

Nu-Cast, Inc.



By: D. Donald McKitterick, President
Duly Authorized

9-6-06

Date:

NH Department of Environmental Services



Robert R. Scott, Director
Air Resources Division

9-11-06

Date

 **COPY**

Michael P. Nolin, Commissioner

09 12 06

Date

cc: R. Kurowski, EPA Region I
J. Patterson, NH AGO - EPB
G. Hamel, DES Legal Unit Administrator
Public Information Officer, DES PIP Office
David Caron, Town Manager of Londonderry
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